

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The disputed dates of service 2-20-04 and 2-21-04 are untimely and ineligible for review per TWCC Rule 133.308 (e)(1) which states that a request for medical dispute resolution shall be considered timely if it is received by the Commission no later than one year after the dates of service in dispute. This dispute was received on 2-24-05.

The IRO reviewed 97110, 97116, 97112, 99358-52, and 99090 on 2-27-04 to 3-16-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division. On 3-14-05, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

Code 99455-VR billed for date of service 3-8-04 was denied as unnecessary treatment. Code 99455-VR is required by TWCC and not subject to an IRO review; therefore the carrier denied inappropriately. The billing of code 99455-VR is in compliance with Rule 134.202(e)(6)(F); therefore, recommend reimbursement of \$50.00.

Code 99080-73 billed for date of service 4-22-04 as denied as unnecessary medical; however, per Rule 129.5, the TWCC-73 is a required report and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter; therefore, recommend reimbursement of \$15.00.

### **ORDER**

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the Respondent to pay \$65.00 of the unpaid medical fees outlined above:

- In accordance with TWCC reimbursement methodologies regarding MMI/IR for dates of service on or after August 1, 2003 per Commission Rule 134.202 (e)(6);
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this Order.

This Order is applicable to dates of service 3-8-04 and 4-22-04 as outlined above in this dispute.

This Order is hereby issued this 15th day of April 2005.

Medical Dispute Resolution Officer  
Medical Review Division

Enclosure: IRO Decision



7600 Chevy Chase, Suite 400  
Austin, Texas 78752  
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### NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** April 6, 2005

**To The Attention Of:** TWCC  
7551 Metro Center Drive, Suite 100, MS-48  
Austin, TX 78744-16091

**RE: Injured Worker:**  
**MDR Tracking #:** M5-05-1777-01  
**IRO Certificate #:** 5242

Forté has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to Forté for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

Forté has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

**Submitted by Requester:**

- Table of disputed services
- Daily notes

- Examination reports
- MRI reports
- Designated doctor reports
- FCE reports
- Consultation reports
- TWCC forms
- Exercise sheets
- **Submitted by Respondent:**
  - Daily notes
  - MRI reports
  - Narrative reports
  - Peer reviews
  - Designated doctor reports
  - Exercise sheets
  - Documentation supplied beyond the dates of service in question

### **Clinical History**

According to the supplied documentation, it appears the claimant sustained an injury to his left foot/ankle region when he was hit by a forklift on \_\_\_\_\_. The claimant was originally seen with Mark J. Lining, D.C. for treatment and evaluation approximately 2 weeks later. MRI report dated 9/10/03 of the left ankle revealed a tear of the inferior tibiofibular ligament. MRI of the left forefoot revealed multiple regions of bone contusions. The claimant underwent chiropractic therapy at a frequency of 3 times per week. The claimant underwent a bone scan on 10/13/03 that suggested the possibility of reflex sympathetic dystrophy. In December the claimant underwent 2 lumbar blocks. On 12/29/03 the claimant began active therapy, which continued at a frequency of 3 times per week. A typical exercise sheet, like the one dated on 3/3/04, reported the claimant was undergoing active modalities such as the treadmill, Air-Dyne bicycle, leg press, wobble boards, gait training as well as the air walker. The documentation from the insurance carrier goes beyond the dates of service in question and were not reviewed.

### **Requested Service(s)**

97110 – therapeutic exercises, 97116 – gait training, 97112 – neuromuscular re-education, 99358 – prolonged evaluation, 99090 – analyze clinical data from 2/27/04 through 3/16/04

### **Decision**

I agree with the carrier and find that the services in dispute between 2/27/04 through 3/16/04 were not medically necessary.

### **Rationale/Basis for Decision**

According to the supplied documentation, it appears the claimant sustained a compensable injury on \_\_\_\_\_. Approximately 2 weeks after that time, the claimant began passive chiropractic therapy with his treating doctor. The claimant has undergone large amounts of physical therapy/chiropractic therapy since onset of treatment. The treatment in question is approximately 7 months post injury. The documentation provided showed that the claimant's limited improvements were not enough to support the continued and ongoing therapy that was rendered. As stated above, the therapy rendered on 3/3/04 included a large amount of active therapies that could have been reproduced in a home based exercise program. After careful review of the supplied documentation from the provider and the carrier, there was not an adequate amount of objective data that would support the ongoing therapy. The documentation revealed that the therapy being rendered during initial 7 months provided little relief and was not improving the claimant. The claimant was not improving subjectively, objectively and was still unable to work. Continued and ongoing therapy is not seen as reasonable or medically warranted in this case.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 6<sup>th</sup> day of April 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder